

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the
District of New Jersey

United States of America

v.

FRANK NUCERA, JR.

Case No. 17-1033 (AMD)

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 1, 2016 in the county of Burlington in the
District of New Jersey, the defendant(s) violated:

Code Section

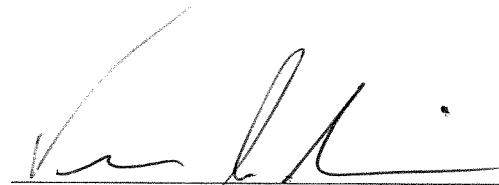
Offense Description

SEE ATTACHMENT A

This criminal complaint is based on these facts:

SEE ATTACHMENT B

☒ Continued on the attached sheet.



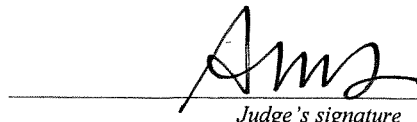
Complainant's signature

Vernon I. Addison, Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 10/31/2017




Judge's signature

City and state: Camden, New Jersey

Honorable Ann Marie Donio, U.S. Magistrate Judge

Printed name and title

CONTENTS APPROVED
UNITED STATES ATTORNEY

By: 
Molly S. Lorber
Assistant U.S. Attorney

Date: October 31, 2017

ATTACHMENT A

COUNT ONE
(Hate Crime)

On or about September 1, 2016, in Burlington County, in the District of New Jersey, and elsewhere, defendant

FRANK NUCERA, JR.

did willfully cause bodily injury to Civilian 1, who is African American, by assaulting Civilian 1 because of his actual and perceived race and color.

In violation of Title 18, United States Code, Section 249(a)(1).

COUNT TWO
(Deprivation of Rights Under Color of Law)

On or about September 1, 2016, in Burlington County, in the District of New Jersey, and elsewhere, defendant

FRANK NUCERA, JR.

did, while acting under color of law, assault Civilian 1 during the course of an arrest of Civilian 1 while Civilian 1 was restrained and handcuffed, thereby willfully depriving Civilian 1 of the right, secured and protected by the Constitution and laws of the United States, to be free from unreasonable search and seizure. This offense resulted in bodily injury to Civilian 1.

In violation of Title 18, United States Code, Section 242.

ATTACHMENT B

I, Vernon I. Addison, am a Special Agent with the Federal Bureau of Investigation. I am the co-case agent in this investigation and I am familiar with the statements of the witnesses, the recorded statements of the defendant, as well as other relevant information, documents and materials. I submit this affidavit in support of a Criminal Complaint alleging that the defendant, a law enforcement officer, willfully caused bodily injury to a civilian, hereinafter referred to as Civilian 1, who was an eighteen year old African American male, because of his actual and perceived race and color, in violation of Title 18, United States Code, Section 249(a)(1). In addition, the Criminal Complaint alleges that the defendant assaulted Civilian 1 while Civilian 1 was in custody and handcuffed, in violation of Title 18, United States Code, Section 242. Because this Criminal Complaint is being submitted for the limited purpose of establishing probable cause, I have not included every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause.

Background

1. At all times relevant to this Complaint, defendant FRANK NUCERA, JR. ("NUCERA") was the Chief of the Bordentown Township Police Department ("BTPD") in Bordentown Township, New Jersey.¹

¹ Defendant NUCERA retired as Chief of the BTPD shortly after the Government informed the New Jersey Attorney General of the pending investigation into Nucera's racially motivated use of excessive force.

2. The evidence in this case establishes that on September 1, 2016, defendant NUCERA unlawfully assaulted Civilian 1. While Civilian 1 was in custody, handcuffed, and being escorted by two officers out of a hotel to a waiting police cruiser, defendant NUCERA approached Civilian 1 from behind and slammed his head into a doorjamb, causing bodily injury to Civilian 1. The evidence set forth herein establishes probable cause that defendant NUCERA's assault of Civilian 1 was motivated by an intense racial animus.

Evidence of Racial Animus Prior to the Arrest of Civilian 1

3. Defendant NUCERA has a significant history of making racist comments concerning African Americans, to whom he frequently referred as "niggers," "nigs," "moulinyans" (an Italian-derived racial slur for African Americans) and "moulies." Defendant NUCERA also made racist comments espousing violence towards African Americans. For example, in or about November 2015, when defendant NUCERA suspected that a previously arrested African American individual had slashed the tires of a police vehicle, defendant NUCERA stated to a subordinate officer, hereinafter referred to as Officer 1, in substance and in part:

I wish that nigger would come back from Trenton and give me a reason to put my hands on him, I'm tired of 'em. These niggers are like ISIS, they have no value. They should line them all up and mow 'em down. I'd like to be on the firing squad, I could do it. I used to think about if I could shoot someone or not, I could do it, I'm tired of it.

4. Defendant NUCERA has also ordered the racially discriminatory use of police dogs to intimidate African Americans. For example, when the BTPD provided security for high school basketball games, defendant NUCERA

instructed police officers to bring canines to certain games and to position the canine vehicles at the entrance to the gymnasium in order to intimidate African American patrons. As another example, on or about April 30, 2016, during a discussion with Officer 1, which was audio recorded, defendant NUCERA directed Officer 1 to walk a police dog through an apartment complex to “let these fucking moulies see him. Let ‘em see him. I don’t care.”²

The Arrest and Assault of Civilian 1

5. On the evening of September 1, 2016, two BTPD officers, identified herein as Officer 2 and Officer 3, responded to a call for help at the Bordentown Ramada hotel. The hotel manager had called police to report that two young individuals had failed to pay for a hotel room the night before and had been swimming in the hotel pool that afternoon. The two individuals were Civilian 1, an eighteen-year-old African American male, and Civilian 2, a sixteen-year-old African American female. Shortly after the two BTPD officers arrived at the Ramada and attempted to question Civilian 1 and Civilian 2 about the allegation that they had failed to pay for the hotel room, the interaction escalated into a physical struggle in a second-floor hallway. Both Civilian 1 and Civilian 2 resisted arrest. During the struggle, one of the officers used pepper spray on Civilian 1, and the officers called for backup. In

² Over the course of approximately one year, Officer 1 made numerous recordings of defendant NUCERA, some of which contain extremely offensive racist comments by defendant NUCERA. Officer 1 stated that he began recording defendant NUCERA because he became increasingly alarmed by the defendant’s racist remarks and hostility towards African Americans.

response, several other police officers, including defendant NUCERA and Officer 1, went to the Ramada. With the additional police assistance, Civilian 1 and Civilian 2 were subdued and handcuffed.

6. Thereafter, defendant NUCERA assaulted Civilian 1.

a. According to Officer 1, several minutes after Civilian 1 had been handcuffed, officers stood him up and began guiding him towards the stairwell. Civilian 1 briefly stopped walking as he reached the area in front of the stairwell doorway and began shouting at the officers. He was not kicking or struggling. Officer 1, who was standing behind Officer 2 and Civilian 1, observed Officer 2 place his hand on Civilian 1's back and begin to push him forward to encourage him to keep walking. At that moment, Officer 1 saw defendant NUCERA approach Officer 2 and Civilian 1 from behind and, using his left hand, grab Civilian 1's head and slam it into the right side of the metal doorjamb separating the hallway from the stairwell. Officer 1 heard Civilian 1's head make a loud thud as it hit the doorjamb.

b. According to Officer 2, at the time of the assault Civilian 1 was handcuffed and no longer resisting. Officer 2 had his arm linked through Civilian 1's to escort Civilian 1 through the doorway at the top of the stairs. Defendant NUCERA was behind them. When Civilian 1 stopped walking for a moment to loudly complain, Officer 2, in his peripheral vision, saw defendant NUCERA's arm move swiftly towards the area of Civilian 1's neck or head. The resulting blow moved both Officer 2 and Civilian 1 through the doorway. Officer 2's right shoulder hit the doorjamb, and some part of the left side of

Civilian 1's body hit the doorjamb. According to Officer 2, the blow was "significant." Officer 2 did not report defendant NUCERA's use of force, even though he viewed it as excessive, because he was afraid of retaliation from the defendant.

7. After the assault by defendant NUCERA, officers continued to escort Civilian 1 down the stairs, out of the hotel, and into a patrol vehicle. Civilian 1 was transported to the BTPD station for processing. While at the BTPD station, Civilian 1 complained of head pain and a possible concussion, among other injuries, and requested medical attention. Officer 1 surreptitiously recorded this exchange, as well as subsequent conversations at the police station that evening. Officer 1 called Emergency Medical Services ("EMS"), who evaluated Civilian 1. Civilian 1 initially requested transport to the hospital. An EMS technician can be heard on Officer 1's recording, however, speaking dismissively of Civilian 1's complaints to police officers, and referring to Civilian 1 as a "dumbass." A few minutes later, Civilian 1 changed his mind and declined a trip to the hospital, instead opting to be processed at the county jail.

**Recordings of Defendant Nucera's Racist Statements
After the Arrest of Civilian 1**

8. Within hours of defendant NUCERA's assault of Civilian 1, Officer 1 recorded defendant NUCERA making the following racially hostile statements regarding Civilian 1, Civilian 2, and African Americans in general:

I'm fucking tired of them man. I'll tell you what, it's gonna get to the point where I could shoot one of these motherfuckers. And that nigger bitch lady, she almost got it.³

"Get back." (UI) aunt. Well, I said "get back."

"Don't tell me what to do."

I said, "I'm telling you, you're getting close to getting thrown on the fucking floor too. Get back."

"That's my niece." I said, "I don't care who the fuck it is. Get fucking back! Don't yell at me, one more time."

Fucking nipple hanging bitch. I'm so tired of them man.

Shortly thereafter, defendant NUCERA had the following exchange with Officer 1:

NUCERA: These fucking people. Where are they from?

Officer 1: Trenton, I think.

NUCERA: They're from Trenton.

Officer 1: I think so.

NUCERA: Stay the fuck out of Bordentown.⁴ Now they can go home and tell them, you can go to

³ This is an apparent reference to the aunt of Civilian 2 who was present at the scene of the arrest.

⁴ The residents of Bordentown are predominantly Caucasian, as opposed to the residents of Trenton who are predominantly African American. The U.S. Census Bureau reports that, as of April 2010, the population of Caucasians in Bordentown was 74.4%, and the population of African Americans in Bordentown was 10.7%. See United States Census Bureau QuickFacts, Bordentown Township, New Jersey, available at <https://www.census.gov/quickfacts/fact/table/bordentowntownshipburlingtoncountynewjersey/PST045216>.

Bordentown, they'll fuck, I just, you know what? It would have been nice if that fucking dog could have come up. 'Cause they would have stopped, put down.

...

That dog, that dog will stop anything right then and there [makes dog noises]. I'm telling you. You'd have seen two fucking niggers stop dead in their tracks. I love that when they do that. I just love that.

Later that evening, Officer 1 recorded defendant NUCERA referring to Civilian 1 as a "[f]ucking little, fucking nigger."

9. On December 13, 2016, approximately three months after Civilian 1's arrest, Officer 1 recorded defendant NUCERA attempting to defend the excessive use of force against Civilian 1 by arguing that numerous police officers had to respond to the call "cause of six unruly fucking niggers."